



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2010

Mr. Ken Levine
Interim Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

OR2010-10363

Dear Mr. Levine:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 386354.

The Sunset Advisory Commission (the "commission") received a request for several categories of information pertaining to the commission's review of the Texas Department of Public Safety ("DPS").¹ You state you have released some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 325.0195 of the Government Code. Section 325.0195 provides in relevant part:

(a) A working paper, including all documentary or other information, prepared or maintained by the commission staff in performing its duties under

¹You state the commission sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

this chapter or other law to conduct an evaluation and prepare a report is excepted from the public disclosure requirements of Section 552.021.

Id. § 325.0195(a). You inform us the submitted information consists of the commission's working papers that were collected and maintained by the commission during its evaluation of DPS. You further state this evaluation was authorized under chapter 325 of the Government Code. *See id.* § 325.008(a)(3) ("Before January 1 of the year in which a state agency subject to this chapter and its advisory committees are abolished, the commission shall . . . conduct a review of the agency based on the criteria provided in Section 325.011 and prepare a written report[.]"). Accordingly, we find the submitted information is confidential under section 325.0195(a) of the Government Code and must be withheld under section 552.101 of the Government Code.

You ask this office to issue a previous determination permitting the commission to withhold: (1) communications between commission staff and agency personnel used to develop commission recommendations, (2) staff notes taken during a commission review that pertain to the agency under review, (3) internal documents related to the development of the commission's recommendation, (4) drafts of report materials, and (5) internal commission correspondence regarding a commission review under section 552.101 of the Government Code in conjunction with section 325.0195 of the Government Code, without the necessity of requesting a ruling from our office under the Act. *See id.* § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). We decline to issue such a previous determination at this time. Rather, this letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/tp

Dear Mr. Levine - Page 3

Ref: ID# 386354

Enc. Submitted documents

c: Requestor
(w/o enclosures)